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August 22, 2005 **DOCKET FILE COPY ORIGINAL**

VIA HAND DELIVERY AND ECFS

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals  
445 12th Street S.W.  
Washington, D.C. 20554

**RECEIVED**

**AUG 22 2005**

Federal Communications Commission  
Office of Secretary

Re: NEW-TV, Mobile, Alabama  
DTV Channel 18 (formerly NTSC Channel 61)  
MB Docket No. 04-281, RM-11041  
FCC File No. BPCDT-960920WX  
Withdrawal of Amendment

Dear Ms. Dortch:

On behalf of Paxson Communications Corporation ("PCC"), we hereby submit, in triplicate, this notice of PCC's withdrawal of its amendment, filed January 30, 1998 (the "PCC Amendment"), to the above-referenced application for a new television station to serve Mobile, Alabama (the "Application").

On January 30, 1998, Television Capital Corporation of Mobile ("TCCM"), Fant Broadcast Development, L.L.C., and Marri Broadcasting, L.P. filed a pleading styled as a "Joint Motion for Approval of Universal Settlement" ("Joint Motion") seeking Commission approval of their universal settlement agreement resolving their mutually exclusive applications for a permit to construct a new full-power television station on NTSC Channel 61 at Mobile, Alabama (the "Universal Settlement Agreement"), which was attached to the Joint Motion. The Joint Motion and the Universal Settlement Agreement designated TCCM as the surviving applicant.

Also on January 30, 1998, PCC filed the PCC Amendment proposing the substitution of PCC as the applicant in place of TCCM upon the FCC's issuance of the permit for the NTSC Channel 61 facility. PCC and TCCM set forth the terms of their agreement for this substitution in a Promissory Note dated January 29, 1998 (the "Substitution Agreement and Promissory Note"), which PCC previously submitted in this proceeding. Under the terms of the Substitution Agreement and Promissory Note, TCCM would assign its rights under the Universal Settlement Agreement to PCC upon the FCC's approval of the Universal Settlement Agreement and the FCC's consent to the proposed substitution of PCC.

On July 15, 2005, the Commission issued Public Notice DA 05-2020 announcing its acceptance of the Application, as amended to specify operation of the television station on DTV Channel 18 in lieu of the originally proposed NTSC Channel 61.

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As PCC has previously informed the Commission, TCCM breached the terms of the Substitution Agreement and Promissory Note, and PCC accordingly obtained a judgment against TCCM from the Superior Court for the District of Columbia. (See June 6, 2005 Submission of Requested Documents by PCC in MB Docket No. 04-281.) Given TCCM's breach and other disputes between PCC and TCCM, PCC hereby notifies the Commission that PCC no longer intends to pursue a grant of the construction permit nor will PCC accept the permit or construct the station if the Commission should issue the permit to PCC.

PCC therefore exercises its right to withdraw the PCC Amendment and thereby withdraw as the proposed applicant in this proceeding. To the extent it may be required, PCC submits herewith a Declaration of No Consideration, certifying that PCC has not received any consideration for its submission of this notice of withdrawal. As reflected in long-standing Commission allotment policy, continued interest by an applicant is a prerequisite to the allotment of a new channel. (See, e.g. Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Pocatello, Idaho), 19 FCC Rcd 10192, ¶ 2 (1999).) PCC further notes that the Commission's Rules state that failure to prosecute an application will be cause for dismissal of that application, and that an applicant's request for return of an application will be regarded as a request for dismissal. (47 C.F.R. §73.3568(a)(1), (d) (2004).) Because PCC hereby withdraws its proposal to become the applicant in this proceeding, the Commission should dismiss the PCC Amendment forthwith.

PCC has no objection to any party's use of any technical materials that PCC previously submitted in this proceeding or to the Commission's processing of the Application in due course. Indeed, PCC's withdrawal of the PCC Amendment does not affect the Universal Settlement Agreement or the initial applicants' Joint Motion, both of which remain pending before the Commission in their initial (i.e., unamended) states. PCC's action, therefore, does not preclude the Commission's ability to evaluate and approve the Universal Settlement Agreement and the Joint Motion.

For the record, PCC does not interpose any objection to the Commission's issuance of the construction permit to TCCM (as proposed in the Joint Motion) or to any other party.

Respectfully submitted,



William L. Watson  
Vice President & Assistant Secretary

cc: Howard M. Miles (Counsel to Fant Broadcast Development, L.L.C.)  
Thomas J. Dougherty, Jr. (Counsel to Marri Broadcasting, L.P.)  
Vincent A. Pepper (Counsel to TCCM)

### **DECLARATION OF NO CONSIDERATION**

I, William L. Watson, do hereby declare, under penalty of perjury, as follows:


I am Vice President and Assistant Secretary of Paxson Communications Corporation ("PCC").

Concurrently herewith, PCC is exercising its right to withdraw its January 30, 1998 amendment (the "PCC Amendment") to the application for a permit to construct a new commercial television station at Mobile, Alabama (FCC File No. BPCDT-960920WX) (the "Withdrawal Notice"). By this amendment, PCC had proposed the substitution of PCC as the applicant in such application in place of Television Capital Corporation of Mobile.

PCC has not received any compensation in return for its Withdrawal Notice.

PCC did not file the PCC Amendment for the purpose of reaching or carrying out a settlement (other than that proposed by the initial applicants for the construction permit). PCC is not filing its Withdrawal Notice for the purpose of reaching or carrying out a settlement.

Approval of the Withdrawal Notice is in the public interest. It will conserve the resources of the parties and the Commission, and it will speed service to the public.

  
William L. Watson

August 22, 2005